

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

JOHN WILEY & SONS, INC., et al.,

Plaintiffs,

Case No. 1:13-CV-00816-WHP-GWG

v.

Judge William H. Pauley, III

BOOK DOG BOOKS, LLC, et al.,

Magistrate Judge Gabriel W. Gorenstein

Defendants.

**DECLARATION OF TIFFANY C. MILLER**

Tiffany C. Miller, under 28 USC § 1746, declares the following.

1. I, Tiffany C. Miller, am over the age of 18 and I am fully competent to testify to and have personal knowledge of the matters stated in this declaration; every statement of fact herein or incorporated herein by reference is true and correct to the best of my knowledge, belief, and experience.

2. I have been admitted pro hac vice by this Court for this action. I am a member of the bar of the State of Ohio and I am attorney with Bailey Cavaliere LLC. I represent both Defendants in this action. I am trial counsel for Defendants, have worked closely with all other trial counsel of record for Defendants, and I submit this Declaration in support of Defendants' motion for partial summary judgment.

3. I am familiar with the facts and circumstances of the matters referenced in this declaration.

4. Attached here as Exhibit A is a duplicate copy of Exhibit A to Plaintiffs' second amended complaint.

5. On November 24, 2014, I received what Plaintiffs, through their counsel, represented to me to be Plaintiffs' "roadmap." During hearings in this action and also during informal communications between counsel, Plaintiffs' counsel represented that this "roadmap" includes a listing of the evidence upon which Plaintiffs intend to rely to support their claims in this action.

6. On June 10, 2015, I received what Plaintiffs, through their counsel, represented to be a final version of Plaintiffs' "roadmap" listing Plaintiffs' evidence of alleged infringement in this action as to all the 140 titles listed in Exhibit A to the second amended complaint (the "Revised Roadmap"). A true and accurate copy of all pages of the Revised Roadmap as produced by Plaintiffs on June 10, 2015 is attached here as Exhibit B. In the lower right hand corner of the pages of Exhibit B are hand-written numbers (written by me) correlating the Revised Roadmap pages to the numerically listed titles in Exhibit A to the second amended complaint.

7. For purposes of their motion for partial summary judgment, Defendants seek summary judgment on the infringement claims stated for 124 out of the 140 titles appearing in both Exhibit A and B hereto.

8. Attached here as Exhibit C is a listing, summarizing for the Court certain categories of "counterfeit exemplars" for each of the 140 titles at issue. Exhibit C identifies the 124 titles (out of 140) on which Defendants seek summary judgment.

9. Attached here as Exhibit D is a subset of data produced during this action, in response to a subpoena, by Missouri Book Stores ("MBS"). Defendants caused MBS to be subpoenaed for its records showing what books MBS surrendered

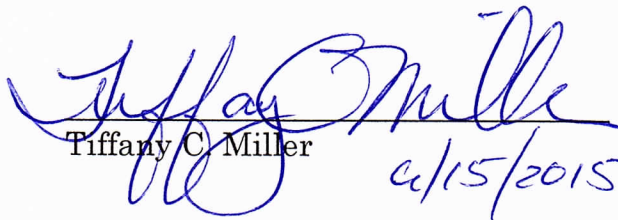
to Plaintiffs and how many copies of each. In response to that subpoena, MBS produced extensive and lengthy Excel spreadsheets detailing all the books it surrendered.

10. The attached Exhibit D includes the exact data produced in MBS's subpoena response for the titles actually at issue in this action.

11. On November 14, 2014 and May 7, 2015, Defendants' representatives inspected all physical specimens of book copies that Plaintiffs have stated they might use as evidence to support their infringement claims in this case.

12. Of the books produced by Plaintiffs for inspection, some of them were books that MBS surrendered to Plaintiffs. Out of those books, none of them bore a sticker containing a receiving number used by MBS to indicate that Defendants were the source of the book.

I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed by me on June 15, 2015 in Hilliard, Ohio.

  
Tiffany C. Miller  
6/15/2015